

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH
P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 373-4147

IN THE MATTER OF:

Docket No. 2013-43425 PAC

██████████,

██████████

Appellant

_____ /

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. ██████████ father, represented the Appellant. ██████████ Appeals Review Officer, represented the Department. ██████████, Consultant Reviewer, appeared as a witness for the Department.

ISSUE

Did the Department properly deny the Appellant's request for continuing speech therapy services?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Appellant is a ██████-year-old Medicaid beneficiary. (Exhibit 1, page 7)
2. On ██████████, the Department received a prior approval request for continuing speech therapy services for the Appellant. On the included ██████████ evaluation summary, no medical diagnosis was listed for the Appellant, a concern for autism was noted and the communication diagnosis of severe receptive and expressive language impairment was provided. On a progress report, medical diagnoses of ADHD and Autism were listed. (Exhibit 1, pages 7-14)
3. On ██████████, the Department issued a Notification of Denial to the Appellant stating the request for outpatient speech therapy services was denied because Autism is not a covered service and the goals were not medical. (Exhibit 2, pages 3-4)

4. On ██████████ the Michigan Administrative Hearing System received the Appellant's hearing request. (Exhibit 1, page 6)

CONCLUSIONS OF LAW

The Medical Assistance Program is established pursuant to Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). It is administered in accordance with state statute, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

The Children's Special Health Care Services program is established pursuant to 42 USC 700, *et seq.* It is administered in accordance with MCL 333.5805, *et seq.*

Children's Special Health Care Services (CSHCS) is a program within the Michigan Department of Community Health (MDCH) created to find, diagnose, and treat children in Michigan who have chronic illnesses or disabling conditions. CSHCS is mandated by the Michigan Public Health Code, Public Act 368 of 1978, in cooperation with the federal government under Title V of the Social Security Act and the annual MDCH Appropriations Act. CSHCS promotes the development of service structures that offer specialty health care for the CSHCS qualifying condition that is family centered, community based, coordinated, and culturally competent.

MDCH covers medically necessary services related to the CSHCS qualifying condition for individuals who are enrolled in the CSHCS Program. Medical eligibility must be established by MDCH before the individual is eligible to apply for CSHCS coverage. Based on medical information submitted by providers, a medically eligible individual is provided an application for determination of nonmedical program criteria.

An individual may be eligible for CSHCS and eligible for other medical programs such as Medicaid, Adult Benefits Waiver (ABW), Medicare, or MICHild. To be determined dually eligible, the individual must meet the eligibility criteria for CSHCS and for the other applicable program(s).

Medicaid Provider Manual, Children's Special Health
Care Services, Section 1, January 1, 2013

The Medicaid Provider Manual addresses speech therapy services:

5.3 SPEECH THERAPY

The terms speech therapy, speech-language pathology, speech-language therapy, and therapy are used to mean speech and language rehabilitation services and speech-language therapy.

MDCH covers speech-language therapy provided in the outpatient setting. MDCH only reimburses services for speech-language therapy when provided by:

- A speech-language pathologist (SLP) with a current Certificate of Clinical Competence (CCC).
- An appropriately supervised SLP candidate (i.e., in their clinical fellowship year [CFY]) or having completed all requirements but has not obtained a CCC. All documentation must be reviewed and signed by the appropriately credentialed supervising SLP.
- A student completing his clinical affiliation under direct supervision of (i.e., in the presence of) an SLP having a current CCC. All documentation must be reviewed and signed by the appropriately credentialed supervising SLP.

MDCH expects that all SLPs will utilize the most ethically appropriate therapy within their scope of practice as defined by Michigan law and/or the appropriate national professional association.

For all beneficiaries of all ages, speech therapy must relate to a medical diagnosis, and is limited to services for:

- Articulation
- Language
- Rhythm
- Swallowing
- Training in the use of an speech-generating device
- Training in the use of an oral-pharyngeal prosthesis
- Voice

For CSHCS beneficiaries (i.e., those not enrolled in Medicaid; only enrolled with CSHCS), therapy must be directly

related to the CSHCS-eligible diagnosis(es) and prescribed by the specialty physician who is overseeing the care of the beneficiary.

Therapy must be reasonable, medically necessary and expected to result in an improvement and/or elimination of the stated problem within a reasonable amount of time (i.e., when treatment is due to a recent change in medical or functional status affecting speech, and the beneficiary would experience a reduction in medical or functional status without therapy).

Speech therapy services must be skilled (i.e., require the skills, knowledge and education of a certified SLP to assess the beneficiary for deficits, develop a treatment program and provide therapy). Interventions that could be provided by another practitioner (e.g., teacher, registered nurse [RN], licensed physical therapist [LPT], registered occupational therapist [OTR], family member, or caregiver) would not be reimbursed as speech therapy by MDCH.

For beneficiaries of all ages, therapy is **not** covered:

- When provided by an independent SLP.
- For educational, vocational, social/emotional, or recreational purposes.
- If services are required to be provided by another public agency (e.g., PIHP/CMHSP provider, SBS).
- When intended to improve communication skills beyond premorbid levels (e.g., beyond the functional communication status prior to the onset of a new diagnosis or change in medical status).
- If it requires PA but is rendered before PA is approved.
- If it is habilitative. Habilitative treatment includes teaching someone communication skills for the first time without compensatory techniques or processes. This may include syntax or semantics (which are developmental) or articulation errors that are within the normal developmental process.
- If it is designed to facilitate the normal progression of development without compensatory techniques or processes.
- If continuation is maintenance in nature.
- If provided to meet developmental milestones.
- If Medicare does not consider the service medically necessary.

5.3.A. DUPLICATION OF SERVICES

Some areas (e.g., dysphagia, assistive technology) may appropriately be addressed by more than one discipline (e.g., OT, PT, speech therapy) in more than one setting. MDCH does not cover duplication of services, i.e., where two disciplines are working on similar areas/goals. It is the treating therapist's responsibility to communicate with other practitioners, coordinate services, and document this in his reports.

5.3.B. SERVICES TO SCHOOL-AGED BENEFICIARIES

School-aged beneficiaries may be eligible to receive speech-language therapy through multiple sources. Educational speech is expected to be provided by the school system and is not covered by MDCH or CSHCS. Examples of educational speech include enhancing vocabulary, improving sentence structure, improving reading, increasing attention span, and identifying colors and numbers. Only medically necessary therapy may be provided in the outpatient setting. Coordination between all speech therapy providers should be continuous to ensure a smooth transition between sources.

Outpatient therapy provided to school-aged children during the summer months in order to maintain the therapy services provided in the school are considered a continuation of therapy services when there is no change in beneficiary diagnosis or function. Prior authorization is required before initiating a continuation of therapy.

If a school-aged beneficiary receives medically necessary therapy services in both a school setting (as part of an Individualized Education Plan [IEP]) and in an outpatient setting, coordination of therapy between the providers is required. Providers are to maintain documentation of coordination in the beneficiary's file.

*Department of Community Health,
Medicaid Provider Manual, Outpatient Therapy Section
Version Date: January 1, 2013, Pages 18-20.*

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In the present case, the Department denied the Appellant's prior authorization request for speech therapy services because "Autism is not a covered service. Goals are not medical." (Exhibit 2, pages 3-4)

The Department's Consultant Review did not know why the denial notice stated "Autism is not a covered service". (Exhibit 2, page 3) While the phrasing was not ideal, it appears this sentence was referencing the policy that indicates Autism is not a qualifying diagnosis for CSHCS. (Exhibit 1, page 23) Accordingly, without a CSHCS qualifying diagnosis, the requested continuing speech therapy services could not be covered by CSHCS.

The Department's Consultant Reviewer testified that the Department allows for [REDACTED] sessions of speech therapy in a [REDACTED] month period without prior authorization. Prior authorization is then required for continuing speech therapy services. (Exhibit 2, pages 1-2) The Department's Consultant Reviewer explained that the documentation submitted with this prior authorization request did not meet the standards of coverage in the above cited Medicaid Provider Manual policy. The policy requires the speech therapy services to be related to a medical diagnosis and no medical diagnosis was provided in the [REDACTED] evaluation summary. (Exhibit 1, page 8) The goals were not medically based, i.e. they were not goals that could not be met in school based services. Additionally, no compensatory strategies or techniques were identified. (Consultant Reviewer Testimony and Exhibit 1, pages 4 and 7-14)

The Appellant's father explained that he asked for the hearing to get information about why the request for continuing speech therapy services was denied. (Father Testimony)

While this ALJ sympathizes with the Appellant's circumstances, the above cited Medicaid Provider Manual policy requires the speech therapy services to be related to a medical diagnosis and further states that speech therapy is not covered in several circumstances, including: if services are required to be provided by another public agency; when intended to improve communication skills beyond premorbid levels; for educational, vocational, social/emotional, or recreational purposes; if it is habilitative; designed to facilitate the normal progression of development without compensatory techniques or processes; or to meet developmental milestones. The [REDACTED] evaluation summary provided with this prior authorization request indicated the speech therapy services were not related to a medical diagnosis. (Exhibit 1, page 8) It is noted that medical diagnoses of ADHD and Autism were provided on the included progress note. (Exhibit 1, page 13) However, the evidence still indicates the Appellant receives some speech therapy services from the school, the speech therapy goals were not medical, and that the requested speech therapy for the Appellant would be related to developmental delay and habilitative. The Department's denial of the Appellant's prior authorization request for continuing speech therapy services was consistent with the Medicaid policy and must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied the Appellant's request for continuing speech therapy services based upon the available information.

IT IS THEREFORE ORDERED that:

The Department's decision is **AFFIRMED**.

/s/

Colleen Lack
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

CL/db

cc: [REDACTED]

***** NOTICE *****

The Michigan Administrative Hearing System may order a rehearing on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. The Michigan Administrative Hearing System will not order a rehearing on the Department's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original request. The Appellant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt of the rehearing decision.